

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NAU COUNTRY INSURANCE
COMPANY,

Plaintiff,

v.

FRANK M. WOOD, as the Director
of the National Appeals Division,
and ALT'S DAIRY FARM, LLC,

Defendants.

Case No. 1:23-cv-00127

Hon. Janet T. Neff
U.S. District Court Judge

Hon. Ray Kent
U.S. Magistrate Judge

**DEFENDANT FRANK M. WOOD'S MEMORANDUM
IN SUPPORT OF MOTION TO STAY**

In support of his Motion to Stay the summary judgment briefing schedule in this action, Defendant Frank M. Wood, Director of the National Appeals Division of the U.S. Department of Agriculture (Defendant Director), in his official capacity and by and through his attorneys, Mark Totten, United States Attorney for the Western District of Michigan, and Laura A. Babinsky, Assistant United States Attorney, states that:

1. The Court filed a Case Management Order on May 11, 2023, which set specific deadlines for summary judgment briefing in this case. (ECF No. 17, PageID.49-50.)
2. Upon motion by Defendant Director, the Court entered an Order on September 15, 2023, extending the remaining due dates for summary judgment briefs by forty-five (45) days. (ECF No. 45, PageID.1579.)
3. Pursuant to the Court's Order, Defendants' Response Brief in Opposition to Plaintiff's Motion for Summary Judgment and Defendants' Motion for Summary Judgment and

Brief in Support are due by October 30, 2023. (*Id.*) Plaintiff's Reply Brief in Support of Plaintiff's Motion for Summary Judgment and Response to Defendants' Motion for Summary Judgment is due November 20, 2023. (*Id.*) Defendants' Reply Brief in Support of Defendants' Motion for Summary Judgment is due by December 11, 2023. (*Id.*)

4. On October 24, 2023, Defendant Director filed a Pre-Motion Conference Request in connection with his anticipated motion to remand. (ECF No. 46, PageID.1580.)

5. If the Court grants the motion to remand, this matter will be removed from this Court's docket, thus rendering further briefing and a decision on the Parties' cross-motions for summary judgment unnecessary. Consequently, a stay of the summary judgment briefing schedule in this case pending the Court's consideration of the anticipated motion to stay will conserve the Parties' and Court's resources.

6. Counsel for Defendant Director conferred with counsel for Plaintiff and counsel for Defendant Alt's Dairy Farm, LLC. Counsel for Plaintiff indicated that Plaintiff agrees to this request. Counsel for Defendant Alt's Dairy Farm, LLC did not provide a response.

WHEREFORE, Defendant Director respectfully requests that this Court grant his motion and stay the summary judgment briefing schedule pending the Court's decision on his anticipated motion to remand.

Respectfully submitted,

MARK TOTTEN
United States Attorney

Dated: October 26, 2023

/s/ Laura A. Babinsky
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